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PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional)	
	2100.002900/Sunay 2	

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]	Application Number	Filed
	09/660,093	09/12/2000
on _____	First Named Inventor	
Signature_____	Mehmet Oguz Sunray	
Typed or printed name _____	Art Unit	Examiner
	2477	Bob A. Phunkuth

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
   Note: No more than five (5) pages may be provided.

I am the

☐	applicant/inventor.	/Mark W. Sincell/
		Signature
☐	assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	Mark W. Sincell
		Typed or printed name
✓	attorney or agent of record. Registration number ___52226___	(713) 934-4052
		Telephone number
☐	attorney or agent acting under 37 CFR 1.34.	June 22, 2011
	Registration number if acting under 37 CFR 1.34 _____	Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐	*Total of _____ forms are submitted.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Mehmet O. Sunay	Conf. No. 7323
	Examiner: B. Phunkulh
Serial No.: 09/660,093	Group Art Unit: 2477
Filed: September 12, 2000	Att'y Docket: 2100.002900
For: CODE SPACE SHARING AMONG MULTIPLE MODES OF OPERATION	Customer No. 92585

REASONS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

Claims 1-5 and 8-12 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Kim, et al (U.S. Patent No. 6,937,559) in view of Pfeil, et al (U.S. Patent No. 6,252,967). Applicants respectfully submit that the cited combination of references does not teach or suggest all the limitations set forth in the pending claims. Applicants therefore respectfully submit that the Examiner has not made a *prima facie* case that the pending claims would have been obvious over the cited combination. Applicants have submitted a Notice of Appeal and hereby request a pre-Appeal Brief panel review of the Examiner's rejections of the pending claims.

The pending claims set forth, among other things, partitioning a code space in a communication system so that codes in a first subspace are assigned to users for voice communication sessions until the user's voice communication session is complete. All of the codes in a second subspace are assigned to each of a plurality of users for data communication on a time-shared basis so that each of the plurality of users can use all of the codes in the second subspace for a selected time interval. Applicants respectfully submit that the cited combination of references does not describe or suggest many aspects of the time/code partitioning set forth in the pending claims.

First, Applicants respectfully submit that neither of the cited references describes or suggests segregating voice communication sessions and data communication sessions to different code spaces that use different time/code allocation schemes. To the contrary, Kim teaches that Walsh pools are allocated on the basis of circuit data users. If a packet data user needs a Walsh number, the packet data user can be allocated a Walsh number from the Walsh pool (or pools) that were previously created for circuit data users. Applicants therefore respectfully submit that Kim teaches that Walsh numbers are allocated to circuit and data users <u>from the same pools</u>. Pfeil does not describe or suggest any division of Walsh codes into different pools or spaces.

Second, Applicants respectfully submit that neither of the cited references describes or suggests that each of a plurality of data communication users can be assigned <u>all of the codes in a second subspace on a time-shared basis</u> so that each of the plurality of users can use <u>all of the codes in the second subspace for a selected time interval</u>. The Examiner admits on page 3 of the Final Office Action that Kim does not describe or suggest allocating codes to each of a plurality of users on a time-shared basis for data communication. The Examiner therefore alleges that Pfeil describes the limitations that are admittedly missing from Kim. Applicants respectfully disagree. Pfeil states that it is well known that different remote units can be assigned one of the available Walsh codes for a period of time. See Pfeil, col. 2, ll. 55-61. However, Pfeil does not specify or define the period of time or describe any criteria for determining the period of time that a Walsh code is allocated to any of the users. Pfeil is also completely silent with regard to whether Walsh codes in different portions of the Walsh code space should be allocated for different periods of time and/or based on different criteria. Applicants therefore respectfully submit that the cited combination of Kim and Pfeil does not describe or suggest assigning <u>all of</u>

the codes in a second subspace to users on a time-shared basis so each user can use all of the codes in the second subspace for a selected time interval.

For at least the aforementioned reasons, Applicants respectfully submit that the prior art of record fails to teach or suggest all the limitations set forth in the pending claims. Applicants therefore respectfully submit that the Examiner has not made a *prima facie* case that the pending claims would have been obvious over the prior art of record. Applicants respectfully request that the Examiner's rejections of claims 1-5 and 8-12 under 35 U.S.C. § 103(a) be REVERSED.